

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**January 04, 2005**

DIVISION ONE

B167273      Michael A. Hertz                      (Not for Publication)  
                         v.  
                         Twenty Six, Inc.

The summary judgments in favor of Hertz and against Twenty Six are affirmed. Hertz is entitled to his costs on appeal.

Mallano, Acting P.J.

I concur:      Suzukawa, J., (Assigned)  
I concur in the judgment only: Vogel (Miriam A.), J.

B172554      William Jerkovsky                      (Not for Publication)  
                         v.  
                         Elizabeth Card

The order denying William's request for relief from default is affirmed. Elizabeth is awarded her costs on appeal.

Suzakawa, J. (Assigned)

We concur:      Spencer, P.J.  
                         Vogel (Miriam A.), J.

DIVISION TWO

B158794      Menjou      (Not for Publication)

V.

Toyota Motor Sales, U.S.A., et al.

The judgment is affirmed. Respondents are awarded costs of appeal.

Nott, Acting P.J.

We concur:   Doi Todd, J.

Ashmann-Gerst, J.

B172241      Daneshrad      (Not for Publication)

V.

# The Century Supper Club

The judgment is affirmed. Daneshrad shall bear Century's costs of appeal.

Nott, Acting P.J.

We concur:   Doi Todd, J.

Ashmann-Gerst, J.

B171653 Tinkerian (Not for Publication)

V.

Hartz International, Inc., et al.

The judgment is affirmed. Appellant shall bear his own costs of appeal.

Nott, J.

We concur: Boren, P.J.

Ashmann-Gerst, J.

January 04, 2004 (Continued)

## DIVISION TWO (Continued)

B169825 People (Not for Publication)  
v.  
Estrada

The judgment is affirmed.

Nott, Acting P.J.

We concur:   Doi Todd, J.  
                       Ashmann-Gerst, J.

B173216 People (Not for Publication)  
v.  
Marble

The judgment is affirmed.

Nott, J.

We concur:   Boren, P.J.  
                      Doi Todd, J.

B172403 Gutkin, Ph.D.  
v.  
University of Southern California

Filed order modifying opinion. Petition for rehearing is denied. (Change in judgment)

DIVISION THREE

B166491      Joel Andrews et al.                      (Certified for Publication)  
                 v.  
                 Mobile Aire Estates et al.

The judgment is reversed insofar as it granted summary judgment in favor of Mobile Aire on the fifth cause of action for breach of written contract, and is otherwise affirmed. The Andrews's shall recover their costs on appeal.

Klein, P.J.

We concur:    Croskey, J.  
   Kitching, J.

B173399      Los Angeles County, D.C.S.                      (Not for Publication)  
                 v.  
                 Lisa M. and Angelito L.

The judgment is affirmed.

Kitching, J.

We concur:    Klein, P.J.  
   Aldrich, J.

DIVISION FOUR

B174262      Danny P., a Minor, etc., et al.                      (Not for Publication)  
                 v.  
                 West Valley Korean Presbyterian Church

The judgment is affirmed.

Grimes, J. (Assigned)

We concur:    Hastings, Acting P.J.  
   Curry, J.

DIVISION FOUR(Continued)

B167048      People                          (Not for Publication)  
v.  
Blue

The prior serious felony and strike findings arising from appellant's prior assault (§ 245, subd. (a)(1)) conviction are stricken, and the matter is remanded to afford the People an opportunity to retry the underlying allegations and for resentencing. In all other respects, the judgment is affirmed.

Grimes, J. (Assigned)

We concur: Vogel (C.S.), P.J.  
Curry, J.

B175163      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Jennie K.

The motion to take additional evidence is denied, and the juvenile court order terminating parental rights is reversed and remanded for the juvenile court for further proceedings. If the juvenile court does not find proper ICWA notice was given to all the tribes, the court shall order appropriate notice be given. If the court determines that no further notices need be given, all previous findings and orders shall be reinstated and are affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.  
Curry, J.

B173948      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Victoria B.

The order denying mother's section 388 petition is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.  
Curry, J.

DIVISION FOUR (Continued)

B172450      Scott Robinson Honda et al.      (Not for Publication)  
                 v.  
                 Lopez

The order is affirmed insofar as it precludes enforcement of a clause allowing arbitral review of awards greater than \$50,000. In all other respects the order is reversed. The cause is remanded to the trial court with instructions to enter a new order (1) granting the motion to compel arbitration, (2) staying the entire action pending the completion of arbitration, and (3) requiring employer to pay for all arbitration costs. Appellants are awarded their costs on appeal.

Grimes, J. (Assigned)

We concur:   Epstein, P.J.  
                 Hastings, J.

B173600      USA Talks.Com, Inc., v. Moskowitz et al.

Filed order denying petition for rehearing.

DIVISION FIVE

Court convened at 9:00 a.m.

Present: Turner, P.J., Armstrong, J., Mosk, J. and J. Belcher, Deputy Clerk.

Each of the following:

B173812 Peo v. Mims  
B170576 Peo v. Hoornbeek  
B172558 Wheat v. Met Life

Argument waived, cause submitted.

DIVISION FIVE (Continued)

B127481     People  
              v.  
              Erick Magana

Merits:  
Argued by Donald R. Tickle for appellant and by David F. Glassman,  
deputy attorney general, for respondent. Cause submitted.

Court recessed at 9:15 a.m.

Court reconvened at 10:00 a.m.

Present: Turner, P.J., Armstrong, J., Mosk, J. and J. Belcher, Deputy Clerk.

B175156     DCFS v. Mitchell C.

Argument waived, cause submitted.

B168078     Tarinee Veraouyant  
              v.  
              Luis Fioretti

Merits:  
Argued by Charles A. Gangloff for appellant and by Michael A. Brush for  
respondent. Cause submitted.

B174865     People  
              v.  
              Jerome Brown

Merits:  
Argued by Lynette Gladd Moore for appellant and by Theresa A. Patterson,  
deputy attorney general, for respondent. Cause submitted.

Court recessed at 11:05 a.m.

January 04, 2004 (Continued)

DIVISION FIVE (Continued)

Court reconvened at 11:10 a.m.

Present: Turner, P.J., Mosk, J., Kriegler, J. (assigned) and J. Belcher, Deputy Clerk.

B169593      Robert Krell  
                  v.  
                  Fleming Gray

Merits:

Argued by Bruce Adelstein for appellant and by Katrina M. Campbell for respondent. Cause submitted.

Court recessed at 11:45 a.m.

Court reconvened at 1:00 p.m.

Present: Turner, P.J., Mosk, J., Kriegler, J. (Assigned) and J. Belcher, Deputy Clerk.

B169461      Assessment Appeals Services  
                  v.  
                  Corolla Centers, Inc. et al.

Merits:

Argued by Greg A. Martin for respondents. Appellant waived argument. Cause submitted.

B172238      Starving Students, Inc.  
                  v.  
                  Division of Labor Standards

Merits:

Argued by Allan J. Graf for appellant and by Anne Stevason for respondent. Cause submitted.

Court adjourned at 1:45 p.m.



## DIVISION FIVE (Continued)

B175740      People                                  (Not for Publication)  
v.  
Ervin Standifer

The judgment is modified to reflect the imposition of a \$10,000 Penal Code section 1202.45 restitution fine discussed in the body of this opinion. Collection of the fine is stayed until defendant violates a condition of his parole. Upon issuance of the remittitur, the clerk of the superior court is directed to prepare and deliver to the Department of Corrections an amended abstract of judgment which reflects a \$10,000 Penal Code section 1202.45 fine and the notation that the sentence as to count 23 was imposed pursuant to Penal Code section 667.61. The judgment is affirmed in all other respects.

Turner, P.J.

We concur:   Armstrong, J.  
                      Mosk, J.

## DIVISION EIGHT

B170438 Lujan  
v.  
Minagar

Filed order denying petition for rehearing.